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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/656,642	09/05/2003	Robert H. Ashton	US20020383	8104
7590 WHIRLPOOL PATENTS COMPANY MD 0750 Suite 102 500 Renaissance Drive St. Joseph, MI 49085			EXAMINER HUSBAND, SARAH E	
			ART UNIT 1746	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/19/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)
	10/656,642	ASHTON ET AL.
	Examiner	Art Unit
	Sarah E. Husband	1746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 01 November 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) 5,14,15 and 20-26 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-4,6-13,16-19 and 27-39 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 05 September 2003 is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application
- 6) Other: _____.

DETAILED ACTION

Election/Restrictions

Claims 5, 14, 15 and 20-26 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species (I. a-d, f and II. a and c-e), there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 11/1/2006.

Claims 14 and 15 are drawn to non-elected species (II.c, Fig. 11) and will not be examined with this office action (see paragraph 41 of specification).

Applicant's arguments are persuasive regarding Group III. Selector Valve Species. The requirement for the election of this particular group of species has been withdrawn contingent upon the claims directed toward the selector valve are generic.

Drawings

New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the drawings are difficult to interpret, dark and illegible. Applicant is advised to employ the services of a competent patent draftsperson outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Claim Objections

Claim 13 is objected to because of the following informalities: line 1 states "at least on pump" which should be "at least one pump". Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the exterior surface" in line 7. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless —

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4, 6-11, 16, and 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Price (US Pub. 2003/0213505).

Price discloses a dishwasher having a wash chamber (213), rotatable spray arm (215), and a circulating pump (214) common to dishwashers. Price further discloses a filter for filtering wash liquid having a chamber wall defining the filter chamber, an inlet opening (Fig. 1a, Item 238) communicating with the filter chamber, outlet opening (233) communicating with filter chamber and wash chamber, filter element (244), and drain outlet (237). Price also

discloses the inlet opening curving into the filter chamber (see Fig. 1a) and a second wall portion below the inlet opening in the plane of a rear wall. Price discloses wash liquid gathering surfaces as the wall surface leading to the inlet (Fig. 1a). Price does not specifically disclose the filter overlying the outlet opening. However, Price does disclose that the filter could be positioned in a variety of places (paragraph 196), one of which consists of the inlet port of the device connected with an outlet of the filter area. Price further discloses the outlet opening positioned adjacent the floor and a nozzle to spray wash liquid on the opening (paragraph 58). Price discloses a pump for draining the wash liquid and filtered material from the wash chamber (220) and a sump screen with strainer (242).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 17, 27, 28, 31-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Price in view of Applicants specification.

Price discloses the apparatus described above in the 102(e) rejection, but does not specifically disclose a strainer or sensors detecting the liquid level of the filter chamber. Applicant's specification describes a "...screen can have a removable strainer... as is well known in the art." (Paragraph 26) The specification also describes, "[liquid level] sensors 107, 107' can be optical sensors, turbidity sensors or pressure sensors as are well known in

the art... US Patent 6909743 and US Patent 6103017, each incorporated by reference, disclose the use of pressure sensors to automatically initiate a filter purge cycle in dishwashers." (Paragraph 36) Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to modify Price with a strainer and filter level indicating means, as they are known improvements and accessories to dishwashers.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Price in view of Sargeant (US Patent No. 5743281).

Price discloses the dishwasher shown above in the 102 rejection. Price does not specifically disclose the dishwasher is a drawer type. Sargeant discloses dishwashers of a drawer type. Both of these types of dishwashers are common and one of ordinary skill would immediately foresee that the structure shown by Price could be incorporated into a drawer type of dishwasher. At the time of the invention, it would have been obvious to one of ordinary skill in the art to combine Price's filtering and dishwashing structure with a drawer type of dishwasher as they are very common and because of the additional convenience that these dishwashers provide.

Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Price and Applicant's specification, as applied to claims 17, 27, 28, 31-39 above, and further in view of Thies (US Patent No. 5,909,743).

Price and Applicant's specification disclose the dishwasher shown above in the 103 rejection. They do not specifically disclose a pump for the filter chamber. Thies discloses a pump for the filter chamber (54) along with a pump for draining the washing chamber (34).

At the time of the invention, it would have been obvious to one of ordinary skill in the art to modify Price and Applicant's spec. with the pump arrangement shown by Thies for the benefit of a flow control of the filtered material.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Price in view of Thies (US Patent No. 5,909,743).

Price discloses the dishwasher shown above in the 102 rejection. Price does not specifically disclose a pump for the filter chamber. Thies discloses a pump for the filter chamber (54) along with a pump for draining the washing chamber (34). At the time of the invention, it would have been obvious to one of ordinary skill in the art to modify Price and Applicant's spec. with the pump arrangement shown by Thies for the benefit of a flow control of the filtered material.

Allowable Subject Matter

Claims 12 and 29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: the prior art does not teach, suggest or disclose the filtering system in the wall of the dishwasher connected with a selector valve having a first inlet connected to the filter drain and a second inlet connected to the wash chamber drain, an outlet connected to the pump, and one or more valve elements and actuators for selectively closing and opening the inlets.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art not referred to are Alabaster (US 3122148), Hoffman (US 5320120) and Jozwiak (US 6182674), who disclose filtering apparatus on the wall of a dishwasher.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah E. Husband whose telephone number is (571) 272-8387. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael E. Barr can be reached on (571) 272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



MICHAEL BARR
SUPERVISORY PATENT EXAMINER

SEH